



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

July 9, 2002

Number: **INFO 2002-0139**
Release Date: 9/30/2002
Index No.: 6416.00-00
6421.00-00

CONEX-133637-02
CC:PSI:B8

[REDACTED]

Attention: [REDACTED]

Dear [REDACTED]:

I am responding to your May 21, 2002 inquiry on behalf of your constituent, [REDACTED]. Her inquiry concerns the tax rules for fuel used by nonprofit organizations that provide public transportation.

The Internal Revenue Code (the Code) generally taxes gasoline before the consumer buys it. However, the Code allows a refund of the gasoline tax if gasoline is used:

- In a bus while furnishing for hire passenger land transportation available to the general public. The bus must be engaged in either scheduled transportation along regular routes, or nonscheduled (charter) operations if the seating capacity of the bus is at least 20 adults, excluding the driver.
- For the exclusive use of a state or local government.
- For the exclusive use of a nonprofit educational organization.

[Sections 6416(b)(2) and 6421 of the Code]

For purposes of this refund, the term "nonprofit educational organization" includes only a nonprofit organization that is an educational organization described in section 170(b)(1)(A)(ii) of the Code, which is exempt from income tax under section 501(a). An educational organization is one that normally maintains a regular faculty and curriculum, and has a regularly enrolled body of students at the place where its educational activities are conducted. A nonprofit educational organization must have as its primary function, the presentation of formal instruction [Section 1.170A-9(b)(1) of the Income Tax Regulations].

I hope this information is helpful. If you have any questions, please contact me at (202) 622-3000 or of my staff at (202) 622-3130.

Sincerely,
William P. O'Shea
Acting Associate Chief Counsel
(Passthroughs and Special Industries)